IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 302 OF 1994.
ALONGWITH
CIVIL APLICATION NO. 504 OF 1994
AND
CIVIL APPLICATION NO. 602 OF 1994

Shri Ramakant Seetacharan Chaturvedi,]
age 40 years, R/o At & Post Sinner,]
Tal. Sinner, Dist. Nashik.] .. Petitioner

Versus

Sou. Nalinibai Jayawant Shinde,]
age 45 years, R/o At & Post Sinner,]
Tal. Sinner, Dist. Nashik.] .. Respondent

Mr. Pramod N. Joshi for the petitioner.

Mr. Prafulla Shah for the respondent.

CORAM: ANOOP V. MOHTA, J.

DATED: 3RD AUGUST, 2005

ORAL JUDGMENT. :

1. The petitioner is a tenant. The respondent is landlord. Sometime in the year 1985, the Regular Civil Suit No.252 of 1985 was filed by the landlord in the Court of Civil Judge, Junior Division, Sinnar (for short "Trial Court"), and claimed possession of the suit premises on the ground of bonafide need and default. The same was resisted. However, after considering the merits of the matter, the learned Trial Court, by order

dated 25th April, 1990, decreed the suit only on the ground of bonafide need. The Appellate Court also, on the Appeal filed by the petitioners, confirmed the findings given by the Trial Court by impugned order dated 22nd April, 1991. Therefore, the present Writ Petition.

2. Heard learned counsel appearing for the parties. After considering the rival contentions, as it is necessary to consider the subsequent developments which, according to the petitioner, goes to the root of the matter and, therefore, Civil Application No.602 of 1994 has been preferred. There is no denial to the said contention as there is no Affidavit in reply filed on the record. The documents which they are insisting upon are nothing but the judgments and decrees in respect of other premises. Those are Regular Civil Suit No.251 of 1985, 253 of 1983 and 250 of 1985.

3. In Civil Application No.504 of 1994, the petitioner again insisted to take on record, the judgment and decree passed in Civil Suit No.205 of 1990 in respect of another premises. The same also remained uncontested. It means on the date of the present Writ Petition, at least at the stage of final hearing, there are more than four premises which are available and

decrees have been passed in favour of the landlord.

4. If it is a case of bonafide need and if parties are not in a position to demonstrate on the record that a case is made out to justify their defence and, as in the present case I am also convinced that a case is made out by the tenant to consider the case of the landlord on the case of bonafide need, therefore, without going further into the merit of the matter, it is necessary that the Appellate Court should consider the issue on the basis of those documents.

5. In view of this, the Writ Petition is allowed. The judgment and decree dated 22nd April, 1991, passed by the Appellate Court is quashed and set aside. The Appellate Court i.e. the Additional District Judge, Nashik, to reconsider the Appeal by giving full opportunity to both the parties and pass appropriate orders accordingly.

6. For the above reasons, the Writ Petition is allowed. The Appellate Court to dispose of the Appeal within a period of four months. No order as to costs.

7. Accordingly, both the Civil Applications are also disposed of as allowed.

[ANOOP V. MOHTA, J.]